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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/542,633

07/29/2005

Shigeki Hayashi

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7590

08/21/2008

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ALEXANDRIA, VA 22320-4850

EXAMINER

TO, TOAN C

ART UNIT

PAPER NUMBER

3616

MAIL DATE

DELIVERY MODE

08/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/542,633		HAYASHI ET AL.	
	Examiner		Art Unit	
	TOAN C. TO		3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 5-11 and 14-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/19/05; 12/27/06; 1/30/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species 1, figures 1-3, claims 1-4, and 12-13 in the reply filed on May 2, 2008 is acknowledged. The traversal is on the ground(s) that in accordance with Chapters 10.03, 10.07, 10.08 of the ISPE, the restriction does not establish that each and every element of the species is known in the prior art. This is not found persuasive because the restriction is made under the PCT Rule 13.1 and 13.2; therefore applicant used Chapters 10.03, 10.07, 10.08 of the ISPE to support for the arguments is considered immaterial. Further, this application contains a plurality of different species, and these species do not have the same or corresponding special technical features. With respect to applicant's argument that figure 16 is a part of the elected species, the examiner agrees.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 5-11, and 14-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on May 2, 2008.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

4. Claims 1-4 and 12-13 rejected under 35 U.S.C. 102(e) as being anticipated by Tanase et al (U.S. 2004/0124615).

Art Unit: 3616

5. With respect to claims 1-32, 4, and 12-13 Tanase et al discloses an occupant protection device comprising an airbag that is inflated with gas from an inflator (17) at a side of an occupant to protect the body of the occupant from the shoulder to the lumbar, the airbag (10) having substantially the same vertical dimension as that of a seat back (13), wherein the airbag has a first region (the horizontal section 27 of the connecting portion 24) that is thinner than other regions in a vehicle width direction in the inflated state, the first region (27) being disposed substantially at the center of the airbag in the vertical direction and extending substantially parallel to the seat back; wherein the airbag also has a second region (28a) that is thin in the vehicle width direction in the inflated state, the second region (28a) being disposed in front of and above the first region (27) at a position corresponding to the upper arm of the occupant; wherein the first region (27) that is thin in the vehicle width direction in the inflated state is divided into sections (25, 26) in the vertical direction, and wherein a gas passage (29, 30) is provided between the sections, wherein the airbag includes an inflatable body (18) at the bottom of the airbag; the inflatable body being inflated at the side of the thigh of the occupant, wherein the airbag is folded such that an upper portion and a lower portion are placed on a center portion and is then rolled (see figure 32D)

6. With respect to claim 3, Tanase et al discloses an occupant protection device, wherein the first region (27) that is thin in the vehicle width direction in the inflated state is substantially oval in side view (figure 7A shows the horizontal section 27 is substantially oval in side view).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TOAN C. TO whose telephone number is (571)272-6677. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Toan C To/
Examiner, Art Unit 3616
August 14, 2008